

SIMEON TOLENTINO, COMPLAINANT, VS. HON. JOSE C. COLAYCO, RESPONDENT.*Adm. Case No. 174-J. January 28, 1972*

Ponente: ZALDIVAR, J.

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Simeon Tolentino filed an administrative complaint against Hon. Jose C. Colayco, Judge of the Court of First Instance of Cavite, Tagaytay City Branch, charging said judge of having accepted a bribe and of having acted in a manner unbecoming of a judge.

In the charge for alleged bribery, Simeon Tolentino alleges that Judge Jose C. Colayco accepted money amounting to several thousand pesos in consideration of the favorable decisions that he rendered in two election cases – the cases of Reyes vs. Reyes, TG No. 105, and Quiamson vs. Asuncion, TG No. 95 of the Court of First Instance of Cavite. In support of this charge, the complainant attached to the complaint the affidavits of Lorenzo Malabanan and Raymundo Matulak, in which affidavits these two affiants state that sometime in the month of September, 1969, at noon time, they were in the premises of the Franciscan convent in Tagaytay City where they saw Judge Jose C. Colayco pacing as if expecting someone; that they saw a man alight from a car bringing a portfolio who approached Judge Colayco and told him "dala ko na Judge ang singkuwenta mil para sa caso ni Reyes at Asuncion" (I brought with me, Judge, the fifty thousand for the case of Reyes and Asuncion); that the man opened the portfolio and showed its contents to Judge Colayco, and they saw bundles of money inside the portfolio; that Judge Colayco got the portfolio and told the man "Sabihin mo sa kanila na ilabas kong parehong panalo" (You tell them that I will release the decision similarly favorable to them).

In the charge for alleged conduct unbecoming of a judge, the complainant alleges that sometime before the elections of 1969 Judge Colayco requested Alejandro Reyes, the protestant in the election case of Reyes vs. Reyes, TG No. 105, to ask the then Undersecretary of Commerce Fernando Campos to intercede in his (Judge's) behalf so that his application for a loan of P50,000.00 in the GSIS be approved; that Secretary Campos did not help the Judge and when the decision in the election case of Reyes vs. Reyes was handed down Alejandro Reyes lost. No affidavit was attached to the complaint to support this charge.

The complainant also alleges that Judge Colayco scolded Attys. Roberto P. Tolentino and Fred Henry Marallag, who were private prosecutors in the cases of People of the Philippines vs. Romeo Villanueva, et al., TG-3-70-and TG-5-70 of the Court of First Instance of Cavite, for filing a letter-petition with the Department of Justice requesting that the said cases, which were pending before Judge Colayco, be transferred to the Circuit Criminal Court. The complainant further alleges that Judge Colayco showed partiality and prejudice against the prosecution in the cases because he made representations with the Department of Justice for the recall and revocation of Administrative Order No. 87 transferring the cases to the Circuit Criminal Court, and that he told all the lawyers in the two cases that he was bent on granting bail to the accused.

This Court required respondent Judge Jose C. Colayco to answer the complaint.

In his verified answer, Judge Colayco denies the charge of bribery. He states:

"The undersigned cannot find words strong enough to deny this canard. The story given by the witnesses (Annexes A and B) that they heard the stranger say that he had brought the P50,000.00; that they heard him mention even the names of the cases for which they were intended; that they saw the bundles of money inside the portfolio when the former opened it to show its contents to the undersigned; that they heard the undersigned tell the man who brought the money to assure 'them' that the decisions would be in their favor; and finally, that all this transpired in the premises of the monastery of the Franciscan Sisters at Tagaytay City is utterly contrary to nature, reason and common sense."

Regarding the charge that he requested Alejandro Reyes to ask Undersecretary Campos to intercede for him to secure a loan from the GSIS, Judge Colayco states that the complainant twisted the facts, because what really happened was that when Undersecretary Campos learned that he was intending to apply for a loan in the GSIS Undersecretary Campos offered to help and Undersecretary Campos told him to send the application papers to his law office, but he (the judge) did not send the papers; that Alejandro Reyes, who was a follower of the Undersecretary and who had a pending election case before him, came to see him and offered to file the papers in the GSIS himself, saying that he had a close relative in the GSIS; and that he declined the offer of Alejandro Reyes for obvious reasons. Alejandro Reyes lost in the election case - his opponent was declared winner by Judge Colayco with a margin of 90 votes over Alejandro Reyes.

With reference to the charge of partiality and prejudice, Judge Colayco admits that he chided Atty. Fred Henry V. Marallag, not for having petitioned the Secretary of Justice to transfer the criminal cases of *People vs. Romeo Villanueva, et al.*, to the Circuit Criminal Court but for having placed him (the judge) in bad light before the Secretary of Justice for alleging, as reason for the transfer of the cases to the Circuit Criminal Court, that "there is an urgent need for the expeditious termination of the case," and in not furnishing him with a copy of the letter-petition as a matter of courtesy. Judge Colayco denies the charge that he made representations with the Department of Justice in order that Administrative Order No. 87 which ordered the transfer of the two cases to the Circuit Criminal Court be recalled and revoked. The respondent Judge cites portions of the record of the proceedings in the criminal cases, attached to the record of this case, which show that he did not care whether the case was tried by him or by another Judge (Annex D to the complaint, and Appendix 1 to the answer).

Regarding the charge that he showed partiality in favor of the accused by telling the lawyers that he was going to grant bail to the accused, Judge Colayco narrates in his answer what really happened. The respondent Judge states that he called all the lawyers appearing in the two cases to an informal conference in his chamber where he adverted to the tension prevailing because of the number of armed bodyguards attending the proceedings, and he enjoined the lawyers not to be influenced by partisan considerations, and in connection with the petition of the accused for bail he appealed to the lawyers not to resort to dilatory tactics and to present their evidence without delay, and after making the appeal he warned the private prosecutors that if they would resort to dilatory tactics he might be inclined to grant bail to the accused.

It is Our considered view that the charge of bribery against respondent judge is flimsy. The statements of Lorenzo Malabanan and Raymundo Matulak, the affiants in the two affidavits which are made to support the charge of bribery, are ridiculously incredible. The affiants did not state in their affidavits how it happened that they were in the premises of the convent of the Franciscan Sisters on that particular noon time when they allegedly saw a man deliver the bribe money amounting to P50,000.00 to respondent judge. It can not be believed that the two affiants were near the respondent Judge and the man who gave the bribe money, that they saw the bundles of money inside the portfolio that was allegedly delivered to respondent Judge, and that they heard what the bribe giver said to the Judge and what the Judge said to the bribe giver. The members of this Court are not so naive and gullible as

to take seriously the fantastic story narrated by these two affiants.

We also find the charge against respondent Judge of having acted in a manner unbecoming of a judge to be frivolous. The explanation of respondent Judge, in his verified answer, regarding his alleged scolding of Atty. Fred Henry V. Marallag is satisfactory. We are convinced that all that the respondent judge did was to express his disapproval of the move of Attys. Roberto Tolentino and Fred Henry V. Marallag in petitioning the Secretary of Justice for the transfer of the trial of the criminal cases against Romeo Villanueva, et al., from the court of respondent Judge to the Circuit Criminal Court without even giving him the courtesy of an information regarding the move that they had taken. The respondent Judge alleges in his answer that he considered the reason of these two lawyers in asking for the transfer of the case to the Circuit Criminal Court as a reflection on his efficiency as a judge. We do not consider the actuation of respondent Judge in this connection as improper.

The charge that respondent Judge had shown his partiality in favor of the accused in Criminal Cases TG-3-70 and TG-5-70 (People of the Philippines vs. Romeo Villanueva, et al.) is also flimsy. The complainant alleges that respondent Judge had announced to all the lawyers in the two criminal cases that he was bent on granting bail to the accused in said cases. The respondent Judge explains that what actually happened was that he simply made an incidental remark that if the lawyers in the prosecution of the case would resort to delatory tactics he might have to grant bail to the accused. The Court also considers the explanation of respondent Judge in this connection as satisfactory.

The Court has arrived at the conclusion that the instant administrative complaint was filed against respondent Judge because he denied the petition of Atty. Roberto Tolentino, as private prosecutor in the two criminal cases herein adverted to, to disqualify himself from trying the cases. When respondent Judge denied the motion to disqualify himself, Atty. Roberto Tolentino filed a motion for reconsideration, to which was attached the affidavit of herein complainant wherein he stated that he heard rumors that respondent Judge had received a bribe in connection with two election cases that were decided by him. The respondent Judge required herein complainant and Atty. Roberto Tolentino to appear in court on April 21, 1970 and show cause why they should not be punished for contempt for making the allegation in their motion for reconsideration regarding the bribery of respondent Judge. They failed to appear in court on April 21, 1970, and respondent Judge again ordered them to appear on June 5, 1970 and present witnesses to prove the alleged bribery. Again they failed to present their witnesses. Respondent Judge deferred judgment in the contempt proceeding but denied their motion for reconsideration of the order denying their motion to disqualify respondent Judge. The next thing that happened was the filing of the instant administrative complaint to which were attached the affidavits of the two persons who declared having seen the respondent Judge receive the bribe money. When respondent Judge received a copy of the administrative complaint and the resolution of this Court requiring him to answer the complaint he issued an order inhibiting himself from further acting in the two criminal cases of People vs. Romeo Villanueva, et al. In his verified answer, respondent Judge informs this Court that after a thorough soul-searching he had finally decided to disqualify himself from trying Criminal Cases TG-3-70 and TG-7-70 in the interest of justice, because he felt that "he would be less than human not to admit that the attacks against his honor and integrity had not failed to leave in his heart some feeling of bitterness which would affect his future actions in the case." In his order of inhibition, respondent Judge states:

"In the face of this renewed attack on the integrity of the undersigned, which has already caused him so much bitterness when it was first made in the complainant's motion for reconsideration, the presiding judge must choose between adopting an unyielding attitude in the guise of preserving the dignity of the court, or subordinating his personal feelings by disqualifying himself in order to preserve the faith of the people in the impartiality of our judicial system. Because of the foregoing incidents, the undersigned feels that any course of action that he may take in the case, whether for or against the accused, will inevitably be under a cloud of

suspicion to the detriment of the interests of justice.

"In the interest of justice, therefore, the undersigned judge hereby reconsiders his order denying the motion for reconsideration and inhibits himself from hearing the above-entitled cases." (See Appendix 5 of the Answer).

The Court considers the actuations of respondent Judge Jose C. Colayco in Criminal Cases Nos. TG-3-70 and TG-5-70 of the Court of First Instance of Cavite commendable.

IN VIEW OF THE FOREGOING , the Court resolves to dismiss the instant administrative complaint against Judge Jose C. Colayco of the Court of First Instance of Cavite. Judge Colayco may file against the parties who brought about the manifestly frivolous charges against him such action as he may deem proper to take.

IT IS SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Castro, Fernando, Teehankee, Barredo, and Makasiar, JJ., concur.

Villamor, J., took no part.

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